



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 19 2011

Mr. Joseph Munem

Warren, MI 48092-6302

RE: MUR 6342
Joseph Munem

Dear Mr. Munem:

On August 10, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On April 28, 2011, the Commission found, on the basis of the information in the complaint, that there is no reason to believe that you violated the Act or the Commission's regulations. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Susan L. Lebeaux
Acting Deputy Associate General Counsel
for Enforcement

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Joseph Munem

MUR: 6342

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Rocky for Congress.¹ Rocky for Congress alleges that Paul Welday, a candidate for Congress from Michigan's Ninth Congressional District, and Welday for Congress and David Staudt, in his official capacity as treasurer ("Committee"), paid for a mailer distributed by Michigan Education Network that contained the same accusation against Andrew "Rocky" Raczkowski, Welday's primary opponent, as one found on Welday's website. The complaint further alleges that the return address on the mailer belongs to Michael Greiner, who "[u]pon information or belief, Rocky believes . . . is an associate of Joseph Munem," and describes Munem as being involved in negative advertising campaigns. The complaint further alleges that Michigan Education Network does not exist. The complaint asks the Commission to investigate Welday and the Committee for "illegal coordination" with respect to the mailer.

In separate responses, Welday and the Committee's treasurer deny paying for the mailer or coordinating in any way with independent political organizations. Greiner's response on behalf of himself and the Michigan Education Network states that Michigan Education Network, which created and distributed the mailer, is a 501(c)(4) organization. Joseph Munem did not respond to the complaint.

As discussed in more detail below, the available information does not support the complaint's allegations that Welday or the Committee paid for the mailer or had any connection

¹ In Commission records, the formal name of Rocky for Congress is Raczkowski for Congress. Andrew Raczkowski defeated Welday in the Republican primary election, which was held on August 3, 2010. Raczkowski lost the general election in November 2010.

to it through Michigan Education Network, Greiner, Munem, or otherwise. Further, Welday and the Committee have denied any such connection. Accordingly, there is no reason to believe Joseph Munem violated the Federal Election Campaign Act of 1971, as amended (the "Act"), or the Commission's regulations. The Commission also closes the file.

II. FACTUAL AND LEGAL ANALYSIS

While the complaint asks the Commission to investigate Welday and the Committee for "illegal coordination," its primary allegation is that the Welday campaign paid for the mailer, which is inconsistent with a claim that the Welday campaign coordinated with Michigan Education Network. See 11 C.F.R. § 109.21(a)(1) (a communication coordinated with a candidate or authorized committee must be paid for by a person other than the candidate or authorized committee."). The claim that the Welday campaign paid for the mailer by using Michigan Education Network, Greiner, and Munem as "proxies," rests on three alleged bases: (1) both the mailer and the Welday campaign's website state, using the same sources and numbers, that Raczkowski took \$120,980.67 from various campaign funds and paid that amount to his private business, Mainline Communications; (2) the return address of the mailer is the office of Michael Greiner, who, according to news articles attached to the complaint, was associated with Joseph Munem in connection with a nonprofit organization called the Michigan Civic Educational Fund that engaged in negative advertising in the 2010 Michigan governor's race; and (3) the Complainant could not find any evidence that Michigan Education Network exists as "it is not listed with State of Michigan, the IRS, or the FEC." As set forth below, none of these bases, alone or in combination, support the complaint's allegation that the Welday campaign paid for the mailer.

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As to the first allegation, the information shows that on July 26, 2010, the Welday campaign posted a link on its Facebook account to its "Truth or Consequences"- the Raczkowski Record" website page. <http://www.facebook.com/pwelday/posts/146702995345502>. There is a portion of "Truth or Consequences" that criticizes Raczkowski for taking funds from four prior campaign committees² and giving them to his company, Mainline Communications.

Raczkowski is a former member of the state legislature and unsuccessfully ran for a U.S. Senate seat in 2002. The piece contains the following chart, purportedly based on records from the State of Michigan and the FEC:

Citizens for Raczkowski	\$41,090.97
Rocky for Senate	\$68,113.66
Raczkowski Leadership Fund	\$ 7,564.04
Michigan Future Fund	\$ 4,212.00
TOTAL	\$120,980.67

Three days later, on July 29, 2010, which was five days before the primary, Michigan Education Network distributed a mailer stating in part: "Records on file with the Michigan Secretary of State and the Federal Election Commission prove that Rocky Raczkowski paid his company, Mainline Communications, with money he raised from political donors!" Below that language, in a box, is what purports to be "Campaign Donations Rocky Raczkowski paid to his own company, Mainline Communications," followed by the same chart found in the Welday campaign's "Truth or Consequences" piece.

² Rocky for Senate (the formal name on Commission records is Raczkowski for Senate) was a federal committee that terminated on December 6, 2005. According to the Michigan Secretary of State's Office, Citizens for Raczkowski is an active state committee, and Raczkowski Leadership Fund and Michigan Future Fund were dissolved in 2002.

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Based in part on the same information appearing in both publications, the complaint alleges that the Welday campaign paid for the mailer. The mailer, however, contains a disclaimer on the return address label stating "Paid for by Michigan Education Network." In his response, Welday states that neither he nor his campaign committee "in any way paid for any communications originated by any independent political organizations." In a separate response, the treasurer of Welday for Congress states, "I can categorically state that no funds raised by the Welday for Congress Campaign were used for the purposes described by Mr. Raczkowski," and "[t]he Welday for Congress Campaign has provided full disclosure of all contributions and expenditures." (Emphasis in original). There is no information to the contrary. Since the Welday campaign website publicly posted the information itself three days before the mailer was sent, there is nothing to suggest that the Welday campaign paid for a mailer with a false disclaimer so that it could disseminate negative comments about Raczkowski without being held responsible for doing so.

The second basis the complaint relies on to show that the Welday campaign paid for the mailer is that the return address on the mailer belongs to attorney Michael Greiner, who is allegedly associated with Joseph Munem. The complaint, relying on attached news articles, alleges that Munem has a history of sending "outrageous and slanderous literature and attack ads." However, the complaint presents no facts linking the Welday campaign to the Michigan Education Network, Greiner, or Munem, let alone to the mailer in question. In his response, Welday states that neither he nor his campaign committee "had any knowledge of, association with" or "was involved in any coordination with any independent political organization." Likewise, the Committee's treasurer responded, "I have not coordinated my efforts on behalf of

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Welday for Congress with any other political committee, group or organization.” There is no available information to the contrary.

Third, the complaint suggests that the Welday committee paid for the communication because no organization called Michigan Education Network appeared to exist. However, State of Michigan records show that Michigan Educational Network was incorporated as a 501(c)(4) organization on July 27, 2010, two days before the mailer was sent. In its Articles of Incorporation, Michigan Education Network states that its purpose is exclusively for purposes set forth in Section 501(c)(4) of the IRS Code. Specifically, the Articles state that its purpose is “to facilitate education and public awareness about issues which impact Michigan residents,” including “government overspending, conflicts of interest, public corruption and public policy which inhibits growth.” *See*

http://www.dlegstate.mi.us/bus_corp/results.asp?ID=70885R&page_name=corp. In his response, Greiner states that “[t]he materials and advertising complained about were created and proliferated by the Michigan Education Network, a 501(c)(4) organization dedicated to educating Michigan residents.” Thus, at the time the Michigan Education Network distributed the mailer, the organization legally existed, thereby rebutting the third basis relied upon by the complaint for alleging that the Welday campaign paid for the mailer.

Based on the above, there is no reason to believe that Joseph Munem violated the Act or the Commission’s regulations. The Commission also closes the file.

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